



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Art Unit: 3643
LARSEN, Jesper Kristoffer)	Examiner: PRICE, R.
Serial No.: 09/623,426)	Washington, D.C.
Filed: April 3, 2001)	September 10, 2002
For: ANIMAL BREEDING SYSTEM)	Docket No.: LARSEN=1
)	Confirmation No.: 5642

ELECTION WITH TRAVERSE

Commissioner of Patents
Washington, D.C. 20231

S i r :

1. In response to the species restriction mailed August 12, 2002, applicants elect species 22 (claims 1, 49-57, 67, 68 and 70) with traverse.

2. The cover sheet identifies the case as 09/623,426, first inventor Larsen. The office action summary bears the serial number 09/923,426, first inventor Tsuda. However, it says it is in response to a communication filed March 11, 2002, and we did file a supplemental IDS in 09/623,426. We have assumed that the restriction set forth on pages 2-3 was in fact intended to apply to 09/623,426, consistent with the cover sheet.

3. The species are defined solely by reference to claim numbers without any further identification of either the species or of the genus to which they belong.

With regard to the identification of the species, the examiner's attention is respectfully drawn to MPEP §809.02(a), which requires that each species be clearly identified, preferably by reference to distinct figures or examples, or, if that is not possible, the "mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified".

The Examiner has defined elected species 22 by reference to claims 1, 49-57, 67, 68 and 70. It is not clear exactly how the Examiner is differentiating the breeding system and arrangement

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of these claims from those of each of the other species.

In our opinion, species 22 is related to one or more of the other defined species. Consequently, to restrict, the requirements for restriction of related inventions must be met, see MPEP §§806.04(b) and 808.01(a).

In addition, the Examiner has not made a prima facie showing that a generic claim is not allowable in substance, see MPEP §809.02.

Since the Examiner has not clearly identified each species, we are not in a position to confirm the Examiner's identification of claim 1 as the sole generic claim. We traverse this identification on the grounds that other claims may be generic.

Respectfully submitted,

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